

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/475,765	HAMER ET AL.	
	Examiner	Art Unit	
	Phuoc H. Nguyen	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed on September 8, 2006 and interviewed on October 26, 2006.
2.  The allowed claim(s) is/are 1,3-21,23-30 and 38-41.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

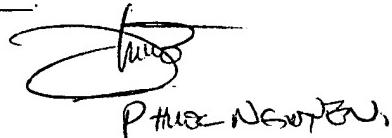
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date October 26, 2006.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.



Phuoc H. Nguyen

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cindy Kaplan (Reg. No. 40,043) on October 26, 2006.

#### **Listing of the Claims:**

Claims 31-37 have been cancelled.

Claims 1 and 20 have been amended as follow.

Claim 1 (currently amended): A method of measuring performance of a web-site transaction between a data acquisition agent and an information source over a network, the transaction comprising requesting information from an the information source connected to the network and interacting with the information source, the method comprising:

receiving at a the data acquisition agent, a transaction previously recorded between a user machine and the information source;

sending a request for information to the information source from the data acquisition agent connected to the network to begin the transaction;

loading data responsive to the request for information onto the data acquisition agent from the information source;

continuing the transaction between the information source and the data acquisition agent by simulating said transaction previously recorded between the user machine and the information source, wherein simulating said transaction comprises updating state information on a web page and linking web pages together;

collecting performance measurements by the data acquisition agent for the transaction, wherein said performance measurements comprise download time of data during said transaction and includes browser execution time; and  
sending the performance measurements collected by the data acquisition agent to a storage device.

Claim 20 (currently amended): A system for measuring performance of a web-site transaction between a data acquisition agent and a web server over a network, the transaction comprising requesting information from a the web server connected to the network and interacting with the web server, the system comprising:

~~a recorder operable to record a transaction between a user machine and the web server;~~  
~~a the data acquisition agent connected to the network and configure to receive a previously recorded transaction between a user machine and the web server, operable to send a request for information to the web server to begin the transaction, the agent being configured to execute the transaction with the web server, load data responsive to the request for information onto the data acquisition agent from the web server, continue the transaction between the web server and the data acquisition agent by simulating the transaction previously recorded between the user machine and the web server, collect performance measurements for the transaction, and send the performance measurements to a storage device;~~

wherein said performance measurements comprise download time of data during said transaction and includes browser execution time, and simulating said transaction comprises updating state information on a web page and linking web pages together;

~~wherein the data acquisition agent is configured to receive a previously recorded transaction between a user machine, the user machine not the data acquisition agent, and the web server, and update state information on a web page upon receiving data from the web server during the transaction.~~

**Examiner's Statement of Reasons for Allowance**

1. This office action is in response to the amendment filed on September 8, 2006 and examiner initiated for a telephone interview on October 26, 2006.

2. Applicant amended claims 1, 20 and cancelled claims 31-37.

3. Claims are allowed 1, 3-21, 23-30, and 38-41.

4. The following is a statement of reasons for the indication of allowable subject matter:

The present invention is directed to a system and method for measuring performance of a web-site transaction between a data acquisition agent and an information source over a network. The independent claims 1 and 20 identify an uniquely distinct feature "continuing the transaction between the information source and the data acquisition agent by simulating said transaction previously recorded between the user machine and the information source, wherein simulating said transaction comprises updating state information on a web page and linking web pages together; and collecting performance measurements by the data acquisition agent for the transaction, wherein said performance measurements comprise download time of data during said transaction and includes browser execution time" and in combination with other limitations as set forth in the independent claim. Claims 3-19, 21, 23-30, and 38-41 are allow due to dependent claims.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H Nguyen  
Examiner  
Art Unit 2143

October 26, 2006

